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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 EXPRESS PACIFIC, LLC, a Washington
10 company

11 Plaintiff,

12 v.

13 IDK COMPANY Ltd, a Russian
14 company,

15 Defendant.

AT LAW AND ADMIRALTY

No. C08-0103RSL

ORDER GRANTING
PLAINTIFF'S UNOPPOSED
MOTION FOR PARTIAL
SUMMARY JUDGMENT

16 This matter comes before the Court on plaintiff Express Pacific. LLC's unopposed
17 "Motion for Summary Judgment" (Dkt. #8). Defendant IDK Company Ltd. has not entered an
18 appearance in this case. Defendant's failure to oppose summary judgment, however, "does not
19 excuse the moving party's affirmative duty under Rule 56 to demonstrate its entitlement to
20 judgment as a matter of law." Martinez v. Stanford, 323 F.3d 1178, 1182 (9th Cir. 2003).

21 Plaintiff's motion for summary judgment in the amount of \$104,600, plus interest, is
22 supported by record evidence that defendant has conceded to owing this amount. See Dkt. #10
23 at Exhibit A.

24 As to the remainder requested by plaintiff, summary judgment is inappropriate as
25 plaintiff's evidence is insufficient to support the motion. Included amongst plaintiff's exhibits in

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1 support of its motion is defendant's purported answer to the complaint (Dkt. #10 at Exhibit A).
2 Although this letter was sent to plaintiff's counsel, see Dkt. #8 at 4-5, the document was never
3 filed with the Court. Notably, plaintiff does not challenge the admissibility of this letter; rather,
4 as noted above, plaintiff relies upon its concession to defendant's debt of \$104,600. This
5 document does not acknowledge a delivery of fuel on July 6, 2007. Plaintiff, on the other hand,
6 has submitted a copy of defendant's statement of account (Dkt. #9 at Exhibit C) and a copy of
7 the relevant invoice (Id. at Exhibit A) indicating that plaintiff delivered 70 metric tons of fuel to
8 defendant on July 6, 2007.¹ Moreover, while defendant's letter lists a February 2007 fuel
9 delivery worth \$8,700, see Dkt. #10 at Exhibit A, plaintiff's copy of the statement of account
10 notes that this delivery was worth \$8,740, see Dkt. #9 at Exhibit C. As a result, plaintiff's
11 documentary evidence on its face suggests that a genuine issue of material fact exists regarding
12 amounts owed over \$104,600.

13 For the foregoing reasons, plaintiff's motion for partial summary judgment is GRANTED
14 for the amount of \$104,600 plus interest. Plaintiff's motion is DENIED for the remainder up to
15 \$179,988.

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17 DATED this 24th day of September, 2008.

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20 Robert S. Lasnik
21 United States District Judge
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25 ¹ The delivery receipt submitted by plaintiff is dated July 4, 2007, not July 6, 2007 as noted on the
26 accompanying invoice. See Dkt. #9 at Exhibit A.